



January 30, 2009

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## HOUSE BILL No. 1217

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DIGEST OF HB 1217 (Updated January 27, 2009 11:16 am - DI 77)

**Citations Affected:** IC 15-15.

**Synopsis:** Corn market development council. Requires the corn market development council to transfer money from assessments to the corn market development account annually. Makes some clarifying changes in the corn market law.

**Effective:** Upon passage; July 1, 2009.

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**Pearson, Gutwein, Pflum, Goodin**

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January 12, 2009, read first time and referred to Committee on Agriculture and Rural Development.  
January 29, 2009, amended, reported — Do Pass.

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HB 1217—LS 7023/DI 14+



January 30, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1217

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-15-12-1.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. As used in this chapter,**  
4 **"account" refers to the Indiana corn market development account**  
5 **established by section 30 of this chapter.**

6 SECTION 2. IC 15-15-12-29, AS ADDED BY P.L.2-2008,  
7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 UPON PASSAGE]: Sec. 29. (a) **Subject to subsection (e)**, the council  
9 shall pay all expenses incurred under this chapter with money from the  
10 assessments remitted to the council under this chapter **and any other**  
11 **funds in the account.**

12 (b) The council may invest all money the council receives under this  
13 chapter, including gifts or grants that are given for the express purpose  
14 of implementing this chapter, in the same way allowed by law for  
15 public funds.

16 (c) The council may expend money from assessments and from  
17 investment income not needed for expenses for market development,

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promotion, and research.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

(e) The expenses of administering this chapter must be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars (\$500,000) on the first day of a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses during that fiscal year. If the account has a balance of more than five hundred thousand dollars (\$500,000) on the first day of a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars (\$500,000) for administrative expenses during that fiscal year.

(f) On June 30 of each year, the council shall transfer to the Indiana corn market development account the amount required to be transferred to the account under section 30(a)(1) of this chapter.

SECTION 3. IC 15-15-12-30, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. (a) The Indiana corn market development account is established within the state general fund for purposes of market development and reimbursing the state for the E85 retail merchant deduction allowed under IC 6-2.5-7-5(d). The account shall be administered by the council. The account consists of:

- (1) assessments the council receives under this chapter;
- (2) gifts; and
- (3) grants.

(b) The expenses of administering this chapter must be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars (\$500,000) for administrative expenses.

(c) (b) On July 1 of each year the budget agency shall transfer from the account an amount equal to the lesser of:

- (1) twenty-five percent (25%) of the balance of the account on the immediately preceding June 30, before the deduction of any expenses under subsection (b); assessments collected, less the

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1 **administrative expenses and refunds paid out, for the period**  
 2 **of July 1 of the previous year through June 30 of the current**  
 3 **year; or**

4 (2) the sum of all retail merchant deductions allowed under  
 5 IC 6-2.5-7-5(d) and IC 6-2.5-7-5.5, in the immediately preceding  
 6 state fiscal year.

7 The amount transferred under this subsection shall be deposited in the  
 8 same manner as state gross retail and use taxes are required to be  
 9 deposited under IC 6-2.5-10-1.

10 ~~(d)~~ (c) The treasurer of state shall invest the money in the account  
 11 not currently needed to meet the obligations of the account in the same  
 12 manner as other public money may be invested. Interest that accrues  
 13 from these investments shall be deposited in the account.

14 ~~(c)~~ (d) Money in the account at the end of a state fiscal year does not  
 15 revert to the state general fund.

16 SECTION 4. IC 15-15-12-33, AS ADDED BY P.L.2-2008,  
 17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2009]: Sec. 33. (a) If a producer has sold corn and the state  
 19 assessment was deducted from the sale price of the corn, the producer  
 20 may secure a refund equal to the amount deducted upon filing a written  
 21 application.

22 (b) A producer's application for a refund under this section must be  
 23 made to the council not more than one hundred eighty (180) days after  
 24 the state assessment is deducted from the sale price of the producer's  
 25 corn.

26 (c) The council shall provide application forms to a first purchaser  
 27 for purposes of this section upon request and make application forms  
 28 available on the council's Internet web site. Before July 1, 2009, a first  
 29 purchaser shall provide an application form to each producer along  
 30 with each settlement form that shows a deduction. After June 30, 2009,  
 31 a first purchaser shall make application forms available in plain view  
 32 at the first purchaser's place of business.

33 (d) Proof that an assessment has been deducted from the sale price  
 34 of a producer's corn must be attached to each application for a refund  
 35 submitted under this section by a producer. The proof that an  
 36 assessment was deducted may be in the form of a duplicate or an  
 37 original copy of the purchase invoice or settlement sheet from the first  
 38 purchaser. The ~~claim~~ refund form and proof of assessment may be  
 39 mailed or faxed to the council. The refund form must clearly state how  
 40 to request a refund, the address where the form may be mailed, and the  
 41 fax number where the form may be faxed.

42 (e) If a refund is due under this section, the council shall remit the

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1 refund to the producer not later than thirty (30) days after the date the  
2 producer's **completed** application and proof of assessment are received.

3 SECTION 5. IC 15-15-12-34, AS ADDED BY P.L.2-2008,  
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2009]: Sec. 34. The checkoff ~~assessment and remittance~~  
6 ~~record refund~~ form must:

7 ~~(1) be in a format that allows a corn producer to submit the same~~  
8 ~~form for an assessment refund;~~

9 ~~(2) (1)~~ contain the address and fax number of the location to  
10 which the assessment refund form may be sent;

11 ~~(3) (2)~~ contain information concerning procedures to claim an  
12 assessment refund; and

13 ~~(4) (3)~~ contain any other information determined necessary by the  
14 council.

15 SECTION 6. IC 15-15-12-35, AS ADDED BY P.L.2-2008,  
16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2009]: Sec. 35. (a) A first purchaser shall keep detailed  
18 records of all assessments collected and remitted under this chapter for  
19 at least three (3) years.

20 (b) Upon request, a first purchaser shall supply the council with any  
21 information from records kept under subsection (a).

22 (c) The council may periodically audit a first purchaser's checkoff  
23 assessment and remittance records kept under subsection (a). An audit  
24 must be conducted by:

25 (1) a qualified public accountant of the council's choosing; **or**

26 (2) **an auditor who is familiar with the:**

27 (A) storage;

28 (B) conditioning;

29 (C) shipping; and

30 (D) handling;

31 **of agricultural commodities.**

32 ~~and~~ The costs of the audit shall be paid by the council.

33 SECTION 7. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1217, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 5, strike "remittance".

Page 4, line 6, strike "record" and insert "**refund**".

Page 4, strike lines 7 through 8.

Page 4, line 9, strike "(2)" and insert "**(1)**".

Page 4, line 11, strike "(3)" and insert "**(2)**".

Page 4, line 13, strike "(4)" and insert "**(3)**".

Page 4, line 26, delete "appointed by the director and is".

and when so amended that said bill do pass.

(Reference is to HB 1217 as introduced.)

PFLUM, Chair

Committee Vote: yeas 12, nays 0.

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